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resolution 16/21**

Marshall Islands

The present report is a compilation of the information contained in reports of the treaty bodies and special procedures, including observations and comments by the State concerned, in reports of the United Nations High Commissioner for Human Rights, and in other relevant official United Nations documents. It is presented in a summarized manner owing to word-limit constraints. For the full texts, please refer to the documents referenced. The report does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review, and developments during that period.

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Please recycle



I. Background and framework

A. Scope of international obligations¹

International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified not accepted</i>
<i>Ratification, accession or succession</i>	CEDAW (2006)		ICERD
	CRC (1993)		ICESCR ICCPR ICCPR-OP 2 CAT OP-CAT OP-CRC-AC OP-CRC-SC ICRMW CRPD ICPPED
<i>Reservations and or declarations</i>			
<i>Complaints procedures, inquiries and urgent action³</i>			ICERD
			OP-ICESCR
			ICCPR
			ICCPR-OP 1
			OP-CEDAW
			CAT
			OP-CRC-IC
			ICRMW
			OP-CRPD
			ICPPED

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Rome Statute of the International Criminal Court		Convention on the Prevention and Punishment of the Crime of Genocide
	Geneva Conventions of 12 August 1949 ⁴		Palermo Protocol ⁵
			Conventions on refugees and stateless persons ⁶
			Additional Protocols I, II and III to the 1949 Geneva Conventions ⁷
			ILO fundamental conventions ⁸
			ILO Conventions Nos. 169 and 189 ⁹
			UNESCO Convention against Discrimination in Education

1. The United Nations Country Team (UNCT) for the Marshall Islands stated that the Marshall Islands was a party to CRC and CEDAW only, and had yet to ratify the optional protocols to those instruments. Referring to recommendations accepted by the Marshall Islands during its first universal periodic review (UPR), on ratification of or accession to the main international human rights treaties and the relevant optional protocols,¹⁰ UNCT urged the Marshall Islands to ratify or accede to the remaining seven core international human rights treaties (ICCPR, ICESCR, ICERD, CAT, ICRMW, CRPD, CPED) and their optional protocols. UNCT also urged the Marshall Islands to sign and ratify CRPD, as recommended in 2012 by the Pacific Islands Disability Ministers, including the Marshall Islands, and endorsed by the Pacific Forum Leaders in 2013.¹¹

2. The International Labour Organization (ILO) indicated that the Marshall Islands had not ratified any of the eight ILO fundamental conventions.¹² UNCT encouraged the Marshall Islands to work with ILO to achieve ratification and implementation of the eight ILO fundamental conventions, and to consider ratifying the Vocational Rehabilitation (Disabled) Convention, 1983 (No. 159), as agreed in 2012 by Pacific Disability Ministers, including the Marshall Islands. Ratification of ILO Convention No. 159 would enhance equality of opportunity and treatment of persons with disabilities in the areas of employment and vocational training.¹³

3. In 2014, the ILO Committee of Experts on the Application of Conventions and Recommendations stressed the importance it attached to the constitutional obligation to transmit reports on unratified Conventions and Recommendations, as the reports permitted a better evaluation of the situation in the context of its General Surveys. In that respect, the Committee recalled that the ILO could provide technical assistance to help in complying with that obligation. The Committee insisted that all member States should fulfil their obligations in that respect and expressed the firm hope that the Government of the Marshall Islands would comply with its future obligations under article 19 of the ILO Constitution concerning the obligations of member States in respect of ILO conventions and recommendations.¹⁴

4. The United Nations Educational, Scientific and Cultural Organization (UNESCO) referred to the recommendations on the right to education that the Marshall Islands had

accepted during the first UPR and encouraged the Marshall Islands to ratify the 1960 UNESCO Convention against Discrimination in Education.¹⁵

B. Constitutional and legislative framework

5. UNCT encouraged the Marshall Islands to include a specific provision in the Constitution on the rights of the child, which should include the best interest of the child as the primary consideration in every matter concerning children.¹⁶

6. UNESCO recommended that the Marshall Islands begin introducing a freedom of information act in line with international standards.¹⁷

C. Institutional and human rights infrastructure and policy measures

7. UNCT encouraged the Marshall Islands to consider establishing a national human rights institution to coordinate, provide capacity development and assist with strengthening human rights implementation throughout the country.¹⁸

8. In 2012, the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (Special Rapporteur on toxic waste) reported his findings and made recommendations based on his visits to the Marshall Islands from 27 to 30 March 2012 and to another country from 24 to 27 April 2012.¹⁹ He had aimed to assess the impact on human rights of the nuclear testing programme, in particular the impact resulting from hazardous substances and wastes of the programme conducted in the Marshall Islands by the other country from 1946 to 1958, focusing also on the efforts made by both Governments to mitigate its adverse effects.²⁰ He recommended that the Government and relevant State actors of the Marshall Islands carry out an independent, comprehensive radiological survey of the entire territory and, in that regard, request relevant United Nations agencies to undertake a study similar to the one conducted by the International Atomic Energy Agency on testing sites in other countries.²¹

9. The Special Rapporteur on toxic waste also recommended that the Government and relevant State actors of the Marshall Islands promote good governance and transparency at the national and atoll administration levels, including through the disclosure of the use of the funds of the Compact of Free Association concluded between the Marshall Islands and the other country and other technical assistance; concurrently, strengthen public and private sector accountability; and develop a human rights policy and management framework, including annual reporting on their social, environmental and economic impact, with appropriate monitoring and evaluation.²²

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies²³

Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CEDAW	—	—	—	Initial report overdue since 2007
CRC	February 2007	—	—	Third and fourth reports overdue since 2010

10. UNCT stated that, although the Marshall Islands had ratified CEDAW in 2006, it had not been able to submit its initial report since 2007. Moreover, the Marshall Islands had ratified CRC in 1993, but had yet to submit its second periodic report, which had been due in 2010. UNCT noted that during its 2010 UPR, the Marshall Islands had stated that it needed technical and financial assistance in properly implementing those treaties. UNCT indicated that technical and financial assistance was provided by United Nations partners, namely the United Nations Population Fund (UNFPA), the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the United Nations Children's Fund (UNICEF), through the deployment of a United Nations volunteer whose main tasks were to support the Government's preparation of periodic reports for CEDAW and CRC, as well as to provide input for the national report for the second UPR cycle. However, the provision of that technical support had not yet resulted in increased reporting under the human rights treaties.²⁴

B. Cooperation with special procedures²⁵

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	No	Yes
<i>Visits undertaken</i>	—	Toxic waste (27–30 March 2012)
<i>Visits agreed to in principle</i>	Toxic waste	—
<i>Visits requested</i>	—	—
<i>Responses to letters of allegations and urgent appeals</i>	—	—
<i>Follow-up reports and missions</i>	—	—

11. In 2011, OHCHR reported that the Marshall Islands was among the States that had extended standing invitations to the special procedures in conjunction with their review under the UPR.²⁶

C. Cooperation with the Office of the United Nations High Commissioner for Human Rights

12. In 2012, the OHCHR Regional Office for the Pacific provided technical support, including through the placement of United Nations volunteers with human rights expertise in ministries of a number of countries of the region, such as the Marshall Islands, to support efforts to implement their UPR and other human rights obligations and commitments, including with regard to the prevention of violence against women, the prevention of torture and the establishment of national human rights institutions.²⁷

13. On 17 April 2014, the Secretary-General of the United Nations reported that a joint initiative among OHCHR, UN-Women, UNICEF and UNFPA had been established to harmonize human rights treaty reporting and implementation and to align the concluding observations of the UPR process in the Marshall Islands, which was expected to lead to a more aligned and comprehensive human rights agenda.²⁸ UNCT also noted that initiative.²⁹

III. Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Equality and non-discrimination

14. UNCT referred to a UPR recommendation that the Marshall Islands had accepted, to include in the Constitution sex, disability, sexual orientation and gender identity as prohibited grounds for discrimination, and encouraged the Marshall Islands to amend the Constitution to include sex and disability as grounds for non-discrimination.³⁰

15. UNCT also referred to a UPR recommendation that the Marshall Islands had accepted, to support gender equality, and encouraged the Marshall Islands to implement the 2010 UPR recommendation to "continue its work to fill the gaps in legislation and national policies that prevent the full implementation of CEDAW".³¹

16. UNCT encouraged the Marshall Islands to review its laws to ensure compulsory and free registration of all children born in the country.³²

B. Right to life, liberty and security of the person

17. UNCT stated that, in order to address the high rates of domestic violence, the Marshall Islands had passed the Domestic Violence Prevention and Protection Act (2011), which criminalized domestic violence and provided a mechanism for protection orders.³³ However, domestic violence remained a challenge that was complicated by tradition, cultural practices and general perceptions and attitudes that abuse was normal in marriage.³⁴ UNCT encouraged the Marshall Islands to implement the Domestic Violence Prevention and Protection Act effectively through advocacy and awareness-raising amongst targeted audiences, and noted that greater gender sensitization was important in order to change mindsets and attitudes.³⁵ UNCT also encouraged the Marshall Islands to undertake studies into access to justice by survivors of domestic violence and to plan and respond accordingly.³⁶

18. UNCT indicated that in the Marshall Islands, more than 20 per cent of parents used physical punishment that hurt a child on a daily basis, and at least 12 per cent of children were verbally humiliated by their parents on a daily basis. While corporal punishment was

prohibited in schools and recognized as an unlawful disciplinary measure, there were concerns that it was still being used in homes and alternative care settings.³⁷ UNCT noted that the Marshall Islands did not have a cohesive child protection programme; the legal framework for child protection was weak and programmes and services lacked strategic direction; and child protection concerns were largely undetected and seemed to go unattended for the most part.³⁸ UNCT encouraged the Marshall Islands to strengthen the normative framework and integrate child protection laws and a comprehensive child protection policy into existing mechanisms, such as the Central Adoption Agency.³⁹

C. Administration of justice and the rule of law

19. UNCT encouraged the Marshall Islands to consider legal reform to raise the minimum age of criminal responsibility from 14 to 15 years.⁴⁰

D. Right to privacy, marriage and family life

20. UNCT encouraged the Marshall Islands to consider making 18 years the legal age of marriage for girls, irrespective of parental or custodial consent, to make it consistent with the legal age of marriage for boys.⁴¹

E. Freedom of expression, and right to participate in public and political life

21. UNESCO recommended that the Marshall Islands take steps to decriminalize defamation and place it within a civil code that was in accordance with international standards, and develop self-regulatory mechanisms in the media.⁴²

22. UNCT indicated that the level of women's representation in politics in the Marshall Islands was low. For example, only one woman had been elected to the legislature in the past five rounds of elections. UNCT encouraged the adoption of temporary special measures to facilitate greater participation and representation of women in public offices, particularly in politics.⁴³

F. Right to work and to just and favourable conditions of work

23. UNCT stated that there had been no formal technical legal review of the existing labour law framework benchmarked against international labour standards in the Marshall Islands. ILO was available to provide technical assistance in that regard, should it receive such a request.⁴⁴

G. Right to health

24. UNCT indicated that a sharp rise in the incidence of obesity and non-communicable diseases had produced a health crisis in the country. That had been largely brought about by the consumption of unhealthy, imported processed foods and more sedentary lifestyles. As a result, diabetes-related diseases and cancer were now the leading causes of death. UNCT also noted that there had been a re-emergence of and/or rise in communicable diseases, such as tuberculosis and leprosy, in the Marshall Islands as a result of extremely high population density and urban overcrowding.⁴⁵ Recalling the UPR recommendation that the Marshall Islands had accepted, to seek assistance from the United Nations specialized

agencies, funds and programmes, especially within the framework of partnerships, with a view to realizing human rights in the area of health. UNCT called on the specialized agencies to increase technical and financial assistance to the Marshall Islands in order to combat these and other critical health problems, paying particular attention to non-communicable diseases.⁴⁶

25. UNCT noted that poor immunization coverage and child malnutrition were additional challenges. Rural children were three times less likely than urban children to be fully immunized. UNCT recommended the implementation of cost-effective public health interventions to increase immunization coverage, including in rural communities and outer islands.⁴⁷

26. UNCT indicated that women in the outer islands had limited access to professional obstetric or gynaecological care, which was only available in urban centres.⁴⁸

27. According to UNCT, the Marshall Islands had a high teenage pregnancy rate and an alarming rate of sexually transmitted infections. Early marriage tended to be accepted. Teenage pregnancies accounted for about 15 to 20 per cent of all recorded births. Socioeconomic factors such as high school drop-out rates and unemployment might play a role, but cultural acceptance of early pregnancy might be a stronger determinant.⁴⁹ UNCT added that, in order to boost efforts to prevent teenage pregnancy, the Ministry of Health, Youth in Youth Health and UNFPA had identified the need for a rights-based, action-oriented strategic plan for the prevention of teenage pregnancy. UNCT encouraged efforts to finalize and implement the proposed strategic plan. It recommended raising awareness about teenage pregnancy, including by addressing the cultural acceptance of the phenomenon.⁵⁰

28. UNCT stated that the Marshall Islands had reduced the under-five and infant mortality rates to an estimated 26 and 22 deaths per 1,000 live births respectively. It was likely to meet the Millennium Development Goal target of a two-thirds reduction between 1990 and 2015.⁵¹

29. On the nuclear weapons testing programme, UNCT referred to the UPR recommendation that the Marshall Islands had accepted, to seek assistance from the United Nations specialized agencies, funds and programmes, with a view to realizing the right to health, and in addressing the legacy of nuclear tests.⁵² According to UNCT, the Marshall Islanders continued to experience the adverse impacts, including severe health problems, arising from exposure to high levels of radiation. In all, 67 nuclear tests had been carried out between 1946 and 1958, during which time the Marshall Islands had been, for the most part, a United Nations Trust Territory. Women not only experienced a high occurrence of stillbirths and infants born with disabilities, but also the multigenerational effects of an increased risk of ovarian cancer, infertility and other reproductive developmental problems.⁵³

30. UNCT noted favourably the cooperation of the Government of the Marshall Islands in supporting the mission to the country in 2012 by the Special Rapporteur on toxic waste. It also noted the actions taken by the Government of the Marshall Islands in seeking realization of responsibility and compensation for the effects of the nuclear testing in the country. It encouraged efforts to consider the findings and implement the recommendations of the Special Rapporteur on toxic waste, particularly those concerning the health dimensions of nuclear testing.⁵⁴

31. The Special Rapporteur on toxic waste recommended that the Government and relevant State actors of the Marshall Islands develop a comprehensive national health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population and, in particular, non-communicable diseases (such as cancer and diabetes), and build on the lessons learned from the National Comprehensive

Cancer Control Plan for the period 2007–2012; the strategy and plan should pay special attention to women and children, and seek to overcome the barriers that women encountered in their access to health facilities, goods and services, including family planning and sexual and reproductive health services; support should also be sought for the renovation of the main hospital and provision of qualified medical personnel and oncology services.⁵⁵

32. The Special Rapporteur on toxic waste also recommended that the Government and relevant State actors of the Marshall Islands consider taking the lead in regional consultations to address the burden of cancer and emerging non-communicable diseases in the Pacific;⁵⁶ and ensure that impact assessments used reliable baseline studies for both environmental contaminants and human health conditions,⁵⁷ bearing in mind that impact assessments should be ongoing to monitor the evolving impact, and be carried out by competent, independent third parties.⁵⁸

H. Right to education

33. UNESCO referred to the recommendations the Marshall Islands had accepted during the first UPR on the right to education and stated that the Marshall Islands had adopted a new law on education in 2013 that ensured the right to education. A policy on gender equality had also been drafted, but the Marshall Islands had not taken specific measures to further promote inclusive and human rights education. UNESCO encouraged the Marshall Islands to continue to submit State reports for the periodic consultations of its education related standard-setting instruments; to adopt specific measures to further promote inclusive education, especially for students with disabilities; and to take additional measures to promote human rights education.⁵⁹

I. Persons with disabilities

34. UNCT referred to the recommendations the Marshall Islands had accepted during the first UPR concerning the adoption of legislation and policies in favour of persons with disabilities, and noted that a preliminary scoping review of the laws of the Marshall Islands had been undertaken in early 2014 as an important first step towards developing comprehensive disability rights legislation consistent with CRPD.⁶⁰ UNCT urged the expeditious adoption and implementation of a comprehensive national disability policy that included the needs of children and women with disabilities and was in full compliance with international standards.⁶¹

J. Internally displaced persons

35. The Special Rapporteur on toxic waste recommended that the Government and relevant State actors of the Marshall Islands engage in a broad consultative process, including with victims, families of victims, victims' associations and other relevant civil society actors, on outstanding issues and measures required to address any long-term human health and environmental effects of the testing, with particular emphasis on solutions aimed at reconciling the traditional land tenure system with durable solutions to displacement.⁶²

K. Right to development, and environmental issues

36. UNCT reported that on 5 March 2014, a state of emergency had been declared by the Cabinet of the Marshall Islands following the king tides that had inundated Majuro Atoll and some of the outer islands, including Arno Atoll, Mili Atoll and Kili Island on 3 March. The inundation had affected housing infrastructure and contaminated water supplies, agriculture and food crops. UNCT noted the Government's rapid request for assistance and that it had developed a response plan with support from the United Nations Office for the Coordination of Humanitarian Affairs, and had released it in late March 2014. UNCT encouraged efforts to implement the response plan with a focus on sustainability and disaster risk prevention.⁶³

37. UNCT also indicated that the Marshall Islands was highly vulnerable to climate change impacts, including rising sea levels, increases in the frequency and intensity of storms and weather-related events including droughts, erosion and coral bleaching, and contamination and salinization of ground water and reservoirs. Studies had demonstrated that average temperatures and sea levels were rising and ocean acidification was increasing while rainfall was decreasing. Food security was impacted by prolonged drought resulting in changes to the water table, hampering the production of traditional food crops such as taro and breadfruit.⁶⁴

38. UNCT referred to the recommendation the Marshall Islands had accepted during the first UPR, to take a rights-based approach to adaptation to climate change, and encouraged the Marshall Islands to implement sustainable mitigation strategies to that end.⁶⁵ It also encouraged the Marshall Islands to utilize the resources of its developmental partners, including the United Nations, to strengthen its capacity to respond to and implement land management policies; to seek international assistance to improve public infrastructure, including for water and sanitation, as recommended by the Special Rapporteur on toxic waste; and to collaborate with development partners, including the United Nations Development Programme, to identify and implement strategies to mitigate risks arising from drought and the geographical conditions of the country.⁶⁶

39. The Special Rapporteur on toxic waste recommended that the Government and relevant State actors of the Marshall Islands develop an economic diversification strategy to reduce overreliance on the Compact of Free Association, including by developing the tourism sector, and make a viability assessment of commercial exploitation of the medicinal and health properties of the pandanus fruit; ensure that the implementation of mechanisms that strengthened the capacity of indigenous and tribal peoples to further their own development priorities were favoured; and establish programmes to support small-scale economic initiatives for women, including the necessary capacity-building.⁶⁷

40. The Special Rapporteur on toxic waste also recommended that the Government and relevant State actors of the Marshall Islands consider creating partnerships with international academic institutions with a view to making the Marshall Islands a centre of excellence in environmental studies by means of the unique research, internship and secondment opportunities it provided in such areas as climate change and marine biology.⁶⁸

41. The Special Rapporteur on toxic waste further recommended that the Government and relevant State actors of the Marshall Islands seek international assistance to improve public infrastructure, including for water, sanitation and waste management facilities; and strengthen engagement with international agencies in those fields, including with the United Nations Environment Programme, to address the waste and chemicals management issues, nuclear or otherwise.⁶⁹

Notes

¹ Unless indicated otherwise, the status of ratification of instruments listed in the table may be found on the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on the Marshall Islands from the previous cycle (A/HRC/WG.6/9/MHL/2).

² The following abbreviations are used in UPR documents

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination.
ICESCR	International Covenant on Economic, Social and Cultural Rights.
OP-ICESCR	Optional Protocol to ICESCR.
ICCPR	International Covenant on Civil and Political Rights.
ICCPR-OP 1	Optional Protocol to ICCPR.
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty.
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women.
OP-CEDAW	Optional Protocol to CEDAW.
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
OP-CAT	Optional Protocol to CAT.
CRC	Convention on the Rights of the Child.
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict.
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography.
OP-CRC-IC	Optional Protocol to CRC on a communications procedure.
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
CRPD	Convention on the Rights of Persons with Disabilities.
OP-CRPD	Optional Protocol to CRPD.
ICPPED	International Convention for the Protection of All Persons from Enforced Disappearance.

³ Individual complaints: ICCPR-OP 1, art. 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and ICPPED, art. 31. Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; ICPPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13. Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; ICPPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12. Urgent action: ICPPED, art. 30.

⁴ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/IHL.

⁵ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

⁶ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons, and 1961 Convention on the Reduction of Statelessness.

⁷ Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see International Committee of the Red Cross, www.icrc.org/IHL.

- ⁸ International Labour Organization, Forced or Labour Convention, 1930 (No. 29), Abolition of Forced Labour Convention, 1957 (No. 105), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), Right to Organise and Collective Bargaining Convention, 1949 (No. 98), Equal Remuneration Convention, 1951 (No. 100), Discrimination (Employment and Occupation) Convention, 1958 (No. 111), Minimum Age Convention, 1973 (No. 138), Worst Forms of Child Labour Convention, 1999 (No. 182).
- ⁹ International Labour Organization, Indigenous and Tribal Peoples Convention, 1989 (No. 169), and Domestic Workers Convention, 2011 (No. 189).
- ¹⁰ For the full text of the recommendations, see the report of the Working Group on the Universal Periodic Review: Republic of the Marshall Islands (A/HRC/16/12), paras. 56.1 (Mexico and Chile), 56.2 (Algeria), 56.3 (Canada, France, New Zealand and Maldives), 56.4 (Argentina), 56.5 (Spain) and 56.6 (Slovakia).
- ¹¹ UNCT submission for the UPR of the Republic of Marshall Islands, p. 2.
- ¹² See www.ilo.org/dyn/normlex/en/f?p=1000:11200:0:NO:11200:P11200_COUNTRY_ID:103414.
- ¹³ UNCT submission for the UPR of the Republic of Marshall Islands, p. 2.
- ¹⁴ ILO Committee of Experts on the Application of Conventions and Recommendations, failure to supply reports for the past five years on unratified Conventions and Recommendations, General Observation (CAS), adopted in 2014, published 103rd ILC session (2014), available from www.ilo.org/dyn/normlex/en/f?p=1000:13100:0:NO:13100:P13100_COMMENT_ID:3176032.
- ¹⁵ UNESCO submission for the UPR of the Marshall Islands, para. 24. For the full text of the recommendations, see A/HRC/16/12, paras. 56.31 (Cuba) and 56.33 (Morocco).
- ¹⁶ UNCT submission for the UPR of the Republic of Marshall Islands, p. 3.
- ¹⁷ UNESCO submission for the UPR of the Marshall Islands, para. 26.
- ¹⁸ UNCT submission for the UPR of the Republic of Marshall Islands, p. 4.
- ¹⁹ Report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Calin Georgescu: Mission to the Marshall Islands (27-30 March 2012) and the United States of America (24-27 April 2012) (A/HRC/21/48/Add.1).
- ²⁰ *Ibid.*, p. 1.
- ²¹ *Ibid.*, para. 63 (a).
- ²² *Ibid.*, para. 63 (g).
- ²³ The following abbreviations are used in UPR documents:
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| CERD | Committee on the Elimination of Racial Discrimination; |
| CESCR | Committee on Economic, Social and Cultural Rights; |
| HR Committee | Human Rights Committee; |
| CEDAW | Committee on the Elimination of Discrimination against Women; |
| CAT | Committee against Torture; |
| CRC | Committee on the Rights of the Child; |
| CMW | Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families; |
| CRPD | Committee on the Rights of Persons with Disabilities; |
| CED | Committee on Enforced Disappearances; |
| SPT | Subcommittee on Prevention of Torture. |
- ²⁴ *Ibid.*, pp. 4 and 5.
- ²⁵ For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.
- ²⁶ OHCHR annual report 2011, p. 101.
- ²⁷ OHCHR annual report 2012, p. 243.
- ²⁸ Mainstreaming a gender perspective into all policies and programmes in the United Nations system: Report of the Secretary-General (E/2014/63), para. 37.
- ²⁹ UNCT submission for the UPR of the Republic of Marshall Islands, p. 5.
- ³⁰ *Ibid.*, p. 3. For the full text of the recommendation, see A/HRC/16/12, para. 56.24 (Canada).
- ³¹ UNCT submission for the UPR of the Republic of Marshall Islands, p. 5. For the full text of the recommendation, see A/HRC/16/12, para. 56.26 (Maldives).

- ³² UNCT submission for the UPR of the Republic of Marshall Islands, p. 3.
- ³³ *Ibid.*, p. 3.
- ³⁴ *Ibid.*, p. 5.
- ³⁵ *Ibid.*, p. 5.
- ³⁶ *Ibid.*, p. 6.
- ³⁷ *Ibid.*, p. 5.
- ³⁸ *Ibid.*, p. 5.
- ³⁹ *Ibid.*, pp. 5 and 6.
- ⁴⁰ *Ibid.*, p. 6.
- ⁴¹ *Ibid.*, p. 6.
- ⁴² UNESCO submission for the UPR of the Marshall Islands, paras. 25 and 27.
- ⁴³ UNCT submission for the UPR of the Republic of Marshall Islands, p. 7.
- ⁴⁴ *Ibid.*, p. 7.
- ⁴⁵ *Ibid.*, p. 7.
- ⁴⁶ *Ibid.*, p. 7. For the full text of the recommendation, see A/HRC/16/12, para. 56.32 (Algeria).
- ⁴⁷ UNCT submission for the UPR of the Republic of Marshall Islands, pp. 7 and 8.
- ⁴⁸ *Ibid.*, p. 8.
- ⁴⁹ *Ibid.*, p. 8.
- ⁵⁰ *Ibid.*, p. 8.
- ⁵¹ *Ibid.*, p. 8.
- ⁵² For the full text of the recommendation, see A/HRC/16/12, para. 56.32 (Algeria).
- ⁵³ UNCT submission for the UPR of the Republic of Marshall Islands, p. 8.
- ⁵⁴ *Ibid.*, p. 9.
- ⁵⁵ A/HRC/21/48/Add.1, para. 63 (b).
- ⁵⁶ *Ibid.*, para. 63 (c).
- ⁵⁷ *Ibid.*, para. 63 (d).
- ⁵⁸ *Ibid.*, para. 63 (d).
- ⁵⁹ UNESCO submission for the UPR of the Marshall Islands, paras. 23 and 24. For the full text of the recommendations, see A/HRC/16/12, paras. 56.31 (Cuba), 56.33 (Morocco).
- ⁶⁰ UNCT submission for the UPR of the Republic of Marshall Islands, p. 3. For the full text of the recommendations, see A/HRC/16/12, para. 56.29 (Spain, United Kingdom and Slovenia).
- ⁶¹ UNCT submission for the UPR of the Republic of Marshall Islands, pp. 4 and 10.
- ⁶² A/HRC/21/48/Add.1, para. 63 (e).
- ⁶³ UNCT submission for the UPR of the Republic of Marshall Islands, p. 10.
- ⁶⁴ *Ibid.*, p. 10.
- ⁶⁵ *Ibid.*, p. 11. For the full text of the recommendation, see A/HRC/16/12, para. 56.36 (Maldives).
- ⁶⁶ UNCT submission for the UPR of the Republic of Marshall Islands, p. 11.
- ⁶⁷ A/HRC/21/48/Add.1, para. 63 (f).
- ⁶⁸ *Ibid.*, para. 63 (h).
- ⁶⁹ *Ibid.*, para. 63 (i).



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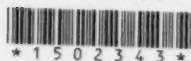
Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Marshall Islands*

The present report is a summary of 4 stakeholders' submissions¹ to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

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Information provided by stakeholders

A. Background and framework

1. Scope of international obligations

1. Kaleidoscope Australia Human Rights Foundation (KAHRF) referred to recommendations accepted by the Republic of Marshall Islands (RMI) during its first UPR in 2010 to ratify the main international human rights instruments.² It stated that RMI has not ratified the majority of key human rights treaties including the ICCPR and the ICESCR. It added that RMI has previously acknowledged that its ratification of international treaties in respect of human rights was insufficient. However, since the last UPR, no further progress has been made to rectify this issue. KAHRF recommended that RMI ratify all significant human rights treaties and their Optional Protocols to reinforce the implementation of, and compliance with, international human rights law in the country.³

2. Institutional and human rights infrastructure and policy measures

2. Joint Submission 1 (JS1) recommended that RMI establish a national commission on human rights.⁴ It also recommended that RMI establish a Government body within the national commission on human rights or within the Ministry of Internal Affairs to address the needs of all individuals, communities and populations adversely-affected by the legacy of military testing in the country.⁵

3. Joint Submission 2 (JS2) indicated that the "National Gender Policy" which would serve as a tool for gender mainstreaming across all Government offices, had remained in draft form since 2013. It recommended that the Government of RMI finalize and endorse the "National Gender Policy"; and urge all Government Ministries to implement it.⁶

4. JS2 also recommended that the Government of RMI allocate resources and provide support to non-governmental organizations to promote, implement and support it in ensuring the protection of human rights in the country.⁷

B. Cooperation with human rights mechanisms

Cooperation with treaty bodies

5. JS2 stated that RMI was a party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) but had never submitted a report on its implementation. JS2 applauded the Government of RMI for ensuring a comprehensive stakeholder consultation on the various issues such as political engagement, economic empowerment, health and education, and environmental protection to include in the report. However, the CEDAW report had yet to be completed and endorsed by the Government. JS2 recommended that the Government of RMI finalize the report and submit it; and take into account the information presented in the report to promote and enhance programmes in the country that protect and promote women's and young girls' rights.⁸

C. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

6. Despite the significant human rights protections under the Constitution, there were no laws which prohibit discrimination against a person based on sexual orientation or

gender identity, according to KAHRF.⁹ KAHRF recommended that RMI amend Article 2 of the Constitution to include sexual orientation and gender identity among the grounds upon which a person cannot be discriminated against; and enact comprehensive anti-discrimination legislation that prohibits discrimination on the grounds of sexual orientation and gender identity/expression.¹⁰ JS2 also recommended that RMI revise its Constitution to include sex and disability in the list of non-discriminatory grounds.¹¹

2. Right to life, liberty and security of the person

7. JS2 indicated that as a party to the CEDAW, RMI has slowly increased its efforts to address violence against women. The passage of the *Domestic Violence Prevention and Protection Act (DV Act)* in 2011 was a real move forward, according to JS2. JS2 also indicated that following the passage of the *DV Act*, the Ministry of Internal Affairs requested from the United Nations Development Programme (UNDP) a costing exercise to implement the *Act*. The exercise covered the needs, capacity and budget issues of certain Government Ministries to effectively implement their component of the *Act*.¹²

8. JS2 noted that with the assistance of Women United Together Marshall Islands (WUTMI), the Ministry of Internal Affairs established a Technical Working Group to ensure and follow the implementation of the *Act*. According to JS2, there was a slow implementation rate of the *Act* with the preparation of the Law Enforcement First Responders Protocol to be finalized and endorsed by the Ministry of Health. Moreover, there were still no designated counselling services or safe houses for women and children escaping domestic violence. JS2 added that the *Act* provided for a Domestic Violence Prevention and Protection Fund to be established, but there was no money in this Fund as at August 2014. The *Act* also required that the Secretary of Internal Affairs be responsible for collecting and maintaining data of reported domestic violence cases; monitoring, evaluating and providing surveillance to domestic violence cases; and reporting and providing necessary activities relating to domestic violence cases. According to JS2, none of this had been achieved until September 2014.¹³

9. JS2 recommended that the Government of RMI finalize and implement the First Responders Protocol to effectively address violence against women and girls; allocate a budget for the specific Ministries to implement the *DV Act* and most importantly allow collection, analysis and dissemination of data as an essential component for measuring the progress of anti-violence initiatives; and develop effective strategies for the Ministries to effectively implement the *Act*.¹⁴

10. Global Initiative to End All Corporal Punishment of Children (GIEACPC) stated that in RMI, corporal punishment of children was lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child. GIEACPC noted that no specific recommendation to prohibit corporal punishment was made during the first UPR of RMI in 2010, but the country accepted recommendations to take legislative and other measures to address violence against children.¹⁵ GIEACPC hoped that RMI will receive during its second review in 2015 a specific recommendation requesting that legislation be adopted to prohibit all forms of corporal punishment of children in all settings, including the home, and explicitly repeal the right to use force for "prevention or punishment of the minor's misconduct" and for the maintenance of "reasonable discipline" in the Criminal Code.¹⁶

3. Right to privacy, marriage and family life

11. KAHRF stated that RMI has de-criminalized consensual same-sex activity and has supported the efforts of the international community to address the issue of discrimination against LGBTI persons. However, it indicated that the *Adoptions Act 2002 (Adoptions Act)* which governed the adoption of all resident children in the country, explicitly prohibited

same-sex couples, or an individual living as a member of a same-sex couple, from being eligible to petition for adoption. According to KAHRF, coupled with the deficiencies under the local law to prevent discrimination, RMI's lack of international treaty ratification meant that the human rights of LGBTI persons remained vulnerable.¹⁷

12. KAHRF recommended that RMI amend the *Adoptions Act* to remove discrimination against same-sex couples and LGBTI people.¹⁸

4. Right to health

13. JS1 expressed concern that residents of RMI at the time it was a United Nations-designated Strategic Trust Territory administered by another country, experienced from 1946 to 1958 unprecedented fallout and environmental contamination that compromised the health of the individuals, communities and an entire nation. JS1 reported that communities living immediately downwind suffered near fatal exposures from March 1, 1954 Bravo Test fallout and residents of Rongelap, Ailinginae and Utrok Atolls were evacuated, while residents of other islands and atolls in the northern chain exposed to dangerous levels of fallout were not evacuated. JS1 indicated that survivors of acute radiation exposure and age-matched subjects from other less contaminated atolls, endured decades of imposed medical research documenting the human effects of exposure in a select portion of the exposed population while ignoring radiogenic health conditions in other island communities. According to JS1, this human subject experimentation program had been acknowledged as a violation of human rights involving potential harm and conducted without informed consent.¹⁹

14. JS1 added that the 177 Health Care Program established under the Compact of Free Association concluded between RMI and the former administering country, provides healthcare services to members of the four atolls communities officially recognized in 1954 by the former administering country as exposed, namely Bikini, Enewetak, Rongelap and Utrok Atolls. With annual funding provided by the former administering country, this system services only the basic needs of these four communities, it does not have the ability to diagnose many conditions, nor does it have the means to provide late-stage cancer treatments, according to JS1.²⁰

15. In the light of that situation, JS1 recommended that RMI seek bilateral engagement and international partnerships in building, staffing and sustaining a comprehensive health treatment system in the country that attended to the acute, chronic and inter-generational effects of exposure to radiogenic and other toxic contaminants resulting from the military use of RMI; until such time as local health needs could be fully addressed within the nation, establish or strengthen agreements to insure reliable and timely access to high standard cancer care that was seamlessly integrated with a system of quality local primary and continuing care and follow-up; as well as prioritize regular trainings for all outer island medical staff for radiogenic and related degenerative illness.²¹ JS1 also recommended that RMI demand a full and independent review of history, performance and needs of the 177 Health Care Program.²²

16. JS2 reported that a review of HIV, human rights and the law was conducted by the Regional Rights Resources Team (RRRT) in 2009. This reviewed existing legislation to identify its scope for protecting the human rights of those who were living with HIV or at risk of HIV. The review identified a number of inconsistencies between existing policies, legislation and practice related to the protection of human rights. According to JS2, although the anti-discrimination protections of the Communicable Diseases Act were helpful, other aspects were likely to impede prevention of HIV and sexual health. Some provisions of the Communicable Diseases Act were inconsistent with a human rights based approach to prevention, treatment care and support. JS2 indicated that the review recommended strengthening the privacy and confidentiality provisions; and that the

Government and the private sector should develop a code of practice on HIV in the workplace which protected people from stigma and encouraged information, education, access to services and confidentiality. JS2 added that there was also a need to strengthen understanding and awareness of the rights of people living with HIV and those who were at risk of HIV across the whole community.²³

17. JS2 recommended that the Government of RMI revise legislation or develop new legislation to ensure the full extent of protection of the rights of people living with HIV; integrate HIV and sexual reproductive health into school curriculum; allocate funds to civil society organizations to address HIV at the community level; and support programs for targeted groups that were best reached by non-governmental organizations.²⁴

5. Right to development, and environmental issues

18. JS1 stated that indigenous rights to a sustainable way of life have been hugely impacted on by inter alia environmental contamination and displacement. Some highly contaminated debris has been concentrated and capped with cement in the "Runit Dome" in Enewetak Atoll which is designated off-limits.²⁵ JS1 also indicated that despite decades of remedial attention from the former administering country, the fundamental conditions of life in RMI remain tenuous, conditions made clear through the RMI Nuclear Claims Tribunal (NCT) deliberations and judgments, most recently reconfirmed by the 2012 report of the Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes (Special Rapporteur on toxic waste). According to JS1, the NCT's administrative court process represented a *defacto*-truth commission for RMI, and the promise of meaningful reparation outlined in NCT awards has, to date, been illusive.²⁶

19. JS1 recommended that RMI, inter alia, continue to seek bilateral engagement to adopt the 2012 recommendations of the Special Rapporteur on toxic waste, including the full funding of the NCT which historically served as a *defacto*-truth commission, with awards that aimed to compensate, remediate and support the restoration of a sustainable Marshallese way of life; prioritize livelihood projects to strengthen customs and culture of communities displaced from traditional homelands, including the four atolls communities; institutionalize and fund a museum to preserve RMI's nuclear heritage.²⁷

20. JS1 also recommended that RMI seek support and technical assistance in conducting a high-resolution sampling of the "Runit Dome" in Enewetak Atoll, as part of a nation-wide assessment taking advantage of current and emerging nuclear disaster assessment, sampling and remediation technologies.²⁸

21. JS1 stated that with climate change, the "Runit Dome" creates new human environmental rights issues. According to JS1, when -- and not "if" -- that structure succumbs to sea-level rise, it threatens communities beyond the resettled Enewetak community. It recommended including these concerns in the larger effort to understand and attend to the threats resulting from climate change.²⁹

22. JS2 indicated that RMI was at the forefront of detrimental effects of climate change and accelerated sea level rise. It noted that the people of RMI experienced real threats of increased droughts, fresh water shortages, sanitation problems, food security, coastal erosion, increased salinity of fresh water lenses, and above all, sinking islands. This was a clear and present danger to the entire population and clear threat to the Marshallese peoples human rights.³⁰

23. According to JS2, the consequence of these impacts would be severe for the Marshallese communities that depended highly on fish, water from the underground lenses and agriculture for their livelihood. JS2 stated that the impacts of climate change posed a fundamental threat to the rights to development, enjoyment of economic, social and cultural

rights, rights to adequate food, housing, adequate standard of living and improvement of living conditions, and the highest attainable standard of physical and mental health. It indicated that the Government of RMI continuously rose, at the regional and international levels, the Marshallese concern that when the situation would become worst, the people would have no choice but to be relocated.³¹

24. JS2 also stated that the Government of RMI had taken some steps to develop policies and action plans to adapt, mitigate and build resiliency of climate change. For example in 2011, RMI developed a "Climate Change Policy" focused on adaptation to develop necessary security measures that responded to the needs of the country, and fostered an environment in which RMI could be better prepared to manage climate variability and future climate projections. This policy contributed to the Marshallese people's achievement of their sustainable development goals outlined in their "Vision 2018". JS2 added that other plans included agency policies and plans such as the Energy Policy and Action Plan, the RMI Disaster Risk Management National Action Plan 2008-2018, the RMI Climate Change Roadmap 2010 which were consistent with the Pacific Islands Framework for Action on Climate Change (PIFACC) 2006-2015, the Pacific Regional Environment Program Strategic Plan 2011-2015, and a 2013 Joint National Action Plan integrating climate change and disaster risk reduction. However, according to JS2, there was minimal progress in the implementation of these plans. Moreover, there was little awareness of these plans for implementers among Government employees tasked to implement climate change and disaster risk reduction related programmes and projects, as well as non-Government organizations which also had projects addressing these two issues.³²

25. JS2 indicated that at the 2013 Pacific Islands Forum Leaders meeting in RMI, the "Majuro Declaration" was adopted. RMI had introduced the "Majuro Declaration" at the United Nations and continued to garner support from countries to commit to reducing their emissions and use alternate forms of energy. According to JS2, an entire population depended on these kinds of commitments to ensure that the rights of people in small islands States like RMI were protected, and their land, food, water as well as heritage were safeguarded.³³

26. JS2 recommended that the Government of RMI improve the information and communication system within its internal structure, for example by creating situations and projects that allowed for easy information flow thus enabling greater access to resources and creating an environment of positive engagement; conduct a review of all action plans and strategies in order to consolidate them and produce a common plan and strategy for all to utilize; continue to raise Marshallese concerns at the international level and call upon countries to commit to the "Majuro Declaration".³⁴

Notes

- ¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at www.ohchr.org. (One asterisk denotes a national human rights institution with "A" status).

Civil society

Individual submissions:

- GIEACPC Global Initiative to End All Corporal Punishment of Children, London (United Kingdom of Great Britain and Northern Ireland);
 KAHRF Kaleidoscope Australia Human Rights Foundation, Clayton (Australia).

Joint submissions:

- JS1 Joint submission 1 submitted by: CPE: Center for Political Ecology, Santa Cruz (United States of America); and Enewetak, Rongelap, Utrik, Bikini Survivors (ERUB); Northern Star Rongelap Women's Club (Iju in Ean); Enewetak-Enjebi Sustainability Leadership Organization (Elimondik); Women United Together Marshall Islands (WUTMI); Cultural Survival; Indigenous World Association; International Women's Anthropology Conference (IWAC); International Network on Displacement and Resettlement (INDR); International Physicians for the Prevention of Nuclear War (IPPNW); and Japan Council Against A and H Bomb (Gensuikyo);
 JS2 Joint submission 2 submitted by: WUTMI: Women United Together Marshall Islands, Majuro (Marshall Islands); and Jo-Jikum.

- ² For the full text of the recommendations, see for example A/HRC/16/12, paras. 56.1 (Chile), 56.2 (Algeria), 56.3 (Canada), (France), (New Zealand), (Maldives), 56.4 (Argentina), 56.5 (Spain), 56.6 (Slovakia).

- ³ KAHRF, pp. 1 and 5.

- ⁴ JS1, p. 9.

- ⁵ JS1, p. 9.

- ⁶ JS2, p. 3.

- ⁷ JS2, p. 7.

- ⁸ JS2, p. 3.

- ⁹ KAHRF, p. 1.

- ¹⁰ KAHRF, pp. 1 and 5.

- ¹¹ JS2, p. 2.

- ¹² JS2, p. 4.

- ¹³ JS2, p. 4.

- ¹⁴ JS2, p. 4.

- ¹⁵ For the full text of the recommendations, see for example A/HRC/16/12, para. 56.20 (Argentina), (Slovakia), (Hungary).

- ¹⁶ GIEACPC, pp. 1 and 2.

- ¹⁷ KAHRF, p. 1.

- ¹⁸ KAHRF, pp. 1 and 5.

- ¹⁹ JS1, pp. 2 and 3.

- ²⁰ JS1, p. 5.

- ²¹ JS1, pp. 9 and 10.

- ²² JS1, p. 9.

- ²³ JS2, p. 5.

- ²⁴ JS2, pp. 5 and 6.

- ²⁵ JS1, p. 6.

- ²⁶ JS1, p. 8.

- ²⁷ JS1, p. 9.

- ²⁸ JS1, p. 10.

- ²⁹ JS1, p. 10.

- ³⁰ JS2, p. 6.

- ³¹ JS2, p. 6.

- ³² JS2, pp. 6 and 7.

³³ JS2, p. 7.

³⁴ JS2, p. 7.
